



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

MEMORANDUM

**TO:** Barry E. Hill, Director, Office of Environmental Justice ("OEJ")  
Office of Enforcement and Compliance Assurance ("OECA")

**FROM:** Theodore J. Kim, Legal Counsel, OEJ/OECA /s/ *Ted Kim*

**DATE:** January 4, 2007

**RE:** "Environmental Justice in the News" for the Week Ending January 5, 2007

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This memorandum summarizes select environmental justice news actions for the period beginning December 22, 2006 through the week ending January 5, 2007. The summary is limited to Lexis/Nexis searches conducted using the query: "(environment! w/2 (justice or racism or equity or disproportionate or disparate)) or (environment! w/25 minorit! or low\*\*\*income) or (executive order 12898) or (civil right! w/25 environmental) or ("fair housing act" w/25 (environment! or zon!))." Please note that articles on international or foreign-based environmental justice issues were not included.

1. **News Items.**

The following news was particularly noteworthy:

- **"Lt. Gov. Quinn Presents 2006 Environmental Hero Awards," US States News (Dec. 28, 2006).** The article set forth a press release that the Illinois Environmental Protection Agency ("IEPA") issued on December 28, 2006. In its press release, IEPA announced that Illinois' Lieutenant Governor Pat Quinn "presented the 2006 Environmental Hero Awards to 24 citizens, cities, and groups in recognition of their commitment to environmental health and protection." Among the awardees was Hazel Johnson, the founder and Chief Executive Officer for People for Community Recovery ("PCR"), which has been instrumental in getting city and state health officials to investigate environmental problems that corporate polluters have caused. The article noted that "PCR continues its fight for environmental justice in Chicago's African-American neighborhoods."

- **“New Views to Help in Planning; Minorities to Offer Input Through Regional Task Force,” Milwaukee Journal Sentinel (Dec. 26, 2006) at B1.** According to the article, the Southeastern Wisconsin Regional Planning Commission (“Commission”) will establish a task force on environmental justice to address criticism that the Commission ignored racial minorities and low-income residents. The task force will look at such issues as freeway construction and water quality, which racial minorities in Milwaukee “have long complained that they had no voice in.” The task force will “tackle environmental justice,” which could help residents “achieve better access to public facilities and services.” Accordingly, the task force “will be asked . . . to ensure full participation by minorities . . . and low-income residents,” and “monitor the needs of those groups, prevent discrimination, and promote better public understanding.”
- **“Majora Carter; Environment: Bringing Cleaner Air and a Bit of Nature to a Place Where It’s Really Needed,” Newsweek (Dec. 25, 2006) at 68.** The article details the efforts of Majora Carter, who created the Sustainable South Bronx (“SSBX”) organization, which is dedicated to the idea that “poor communities of color are just as deserving of clean air, clean water, and open space as wealthier ones.” Through her efforts, as well as those of SSBX, operators of a local sewage treatment plant mitigated the odors in her neighborhood, which is surrounded by waste treatment plants, garbage dumps, and power stations. The article described Ms. Carter as a pioneer and noted that she has “been talking to Google.org, the search company’s philanthropic arm, about ways to fight against climate change to poor communities.”
- **“City Pushes Back Against Power Plant,” Boston Globe (Dec. 24, 2006) at 3.** According to the article, environmental leaders in Chelsea, Massachusetts are outraged “that an energy company has begun the process to gain state approval for a diesel-burning power plant despite community and City Council opposition.” Energy Management Inc. filed an expanded environmental notification form to operate a quick starting power generating plant that would burn low-sulfur diesel fuel and “run during peak energy demand periods and emergency situations.” Chelsea residents oppose the plant, as the United States Environmental Protection Agency (“EPA”) classifies Chelsea as “an Environmental Justice Community of Concern.” The plant raises potential air quality concerns, particularly in light of the fact that Chelsea “has higher asthma and stroke rates than the State average.” The article noted that Chelsea is considered one of the State’s most “environmentally overburdened cities,” which is a classification generally given to “a neighborhood or community composed of predominantly poor or minority residents and that, compared with similar communities, carries a disproportionate level of environmental hazards.”

- **“Healthcare; Research from Brown University, U.S., Provides New Data About Health Care,” Hospital Business Week (Dec. 24, 2006) at 713.** According to the article, a new 2006 report, *Environmental Research; The Riskscape and the Color Line: Examining the Role of Segregation in Environmental Health Disparities*, from Brown University’s Center for Environmental Studies examined “theoretical and methodological questions related to racial residential segregation and health disparities.” The report stemmed from concerns about environmental justice and asserted that “communities of color who are segregated in neighborhoods with high levels of poverty and material deprivation are also disproportionately exposed to physical environments that adversely affect their health and well-being.” The report articulated that an examination of these issues “through the lens of racial residential segregation can offer new insights into the junctures of the political economy of social inequality with discrimination, environmental degradation and health. More importantly, this line of inquiry may highlight whether observed pollution - - health outcome relationships are modified by segregation and whether segregation patterns impact diverse communities differently.”
- **“Landfill Near Webberville Considered,” Austin American Statesman (TX Dec. 23, 2006) at E1.** According to the article, the City of Austin, Texas is conducting environmental studies near Webberville, Texas for a new landfill that could handle the waste disposal needs of Travis County. However, Webberville’s Mayor Hector Gonzales opposes the plant and plans to fight Austin’s plan due to environmental concerns. In fact, Mr. Gonzales articulated that placing a landfill in the area would constitute “another example of [unspecified] environmental racism.”
- **“City Vetoes Health Risk Study Request,” Clovis News Journal (N.M. Dec. 22, 2006).** According to the article, Clovis City Commissioners [(“Commission”)] voted “against a resolution encouraging the New Mexico Environment Department [(“Department”)] to investigate health impacts of a proposed ethanol plant southwest of Clovis.” The Commission’s decision, which was rendered on December 21, 2006, rejected a resolution from one of its commissioners to tell the Department to “carefully investigate and consider all the potential adverse health impacts arising from the construction and operation,” of the proposed plant. However, despite the Commission’s decision, the Department will undertake a health risk study due to the plant’s air quality permit. One citizen took issue with the Commission’s decision, asserting that it failed to do “its job in enforcing Gov. Bill Richardson’s executive order on environmental justice – making sure actions don’t subject minorities and lower-income citizens to more dangerous environmental conditions.” That person did not want the plant to be sited at its proposed location due to concerns for the likely effects on children who live nearby. Specifically, he articulated that the children “are not going to have

adequate health care. That's the reason we need a health risk analysis. The Commission doesn't want to do that, because in doing so, they'll have to admit this is not something this community needs."

- **"Permit Upheld for Toxic Chemical User Brush Ceramic," Tuscon Citizen (AZ Dec. 22, 2006) at 12A.** According to the article, the Pima County Air Quality Hearing Board ("Board") upheld an air quality permit that was given to Brush Ceramic. The Board's decision, which was rendered on December 21, 2006, rejected "a request from environmental activists [the Environmental Justice Action Group] to make air-quality monitoring part of the permit's requirements," which would allow Pima County to "take action if it finds high levels of beryllium." The residents were concerned with the use of the hazardous material beryllium at the site, since inhaled beryllium dust "can cause a reaction that scars lung tissue and suffocates victims."
- **"Briefs," Contra Costa Times (CA Dec. 22, 2006) at F4.** The article set forth various news items within the State, including a blurb entitled, "Rep. Lee Congratulates Pacific Institute." This item noted that Congresswoman Barbara Lee (D-Oakland), who is a longtime advocate for environmental justice, congratulated the Pacific Institute for its receipt of a grant from EPA in the amount of \$178,675. The grant was awarded through EPA's Community Action for a Renewed Environment Program ("CARE") and will fund continued work of the West Oakland Toxic Reduction Collaborative, which seeks to reduce community exposure to toxins. Congresswoman Lee articulated her approval that the funding "will help clean up the air in a community where children are several times more likely to be hospitalized due to asthma than in any other part of California."
- **"Dump Good Neighbor Only When Pressed," Daily News of Los Angeles (Dec. 21, 2006) at N23.** The editorial discusses the hardships in the Sun Valley area of California due to the Bradley Landfill. The editorial asserts that "[s]ome 81 percent of those living within three miles of the landfill are minority and more than 25 percent live below the poverty level." The editorial also states that despite the fact that the City of Los Angeles "has adopted a policy of environmental justice, stating that no racial or economic group should bear a disproportionate burden of the City's environmental hazards," the policy has not been applied to Sun Valley. The editorial then goes on to provide facts on other pollution sources within Sun Valley, such as landfills and waste-transfer stations, which resulted in immense cumulative pollution impacts. The editorial concluded that only through environmental justice advocacy will corporations and politicians "do the right thing."
- **"Fuel-Tank Plans Cause Controversy," San Antonio Express-News (Dec. 20, 2006) at 1SE.** According to the article, the presence of fuel

storage tanks on the East Side of San Antonio has angered the residents, who assert that “they’re fed up with having fuel storage in their area and don’t want any more tanks.” The residents believe that the “only reason fuel storage tanks keep getting built on the East Side is because it is known as a poor part of town.” The emergency fuel supply-company, Redifuel, that is responsible for the tanks and wants to build additional tanks, disputed the residents’ claim and asserted that the tanks’ location has “nothing to do with what some residents term environmental racism.” Rather, Redifuel noted that many of the tanks’ pipelines were already located on the East Side.

- **“What Lies Beneath; Brain and Stomach Cancer. Asthma and Bronchitis. Miscarriages and Stillbirths. All Are Health Problems Suffered by Residents of Midway Village. Why Won’t Authorities Close It Down?, SF Weekly (CA Dec. 20, 2006).** The article discusses the health problems that the low-income minority residents of Midway Village, San Francisco have faced due to hazardous chemicals that PG&E emitted from its neighboring facility. Included among the health problems that were reported were lung and stomach cancer, asthma, miscarriages, stillbirths, and skin rashes. The article then discussed PG&E clean-up efforts, which Wilma Subra, as well as EPA’s Environmental Justice Advisory Committee criticized. The lengthy article concluded by noting that California’s Department of Toxic Substances Control will undertake a nine-month review in January of the site and examine its suitability for residential use.
- **City News Service (Dec. 20, 2006).** According to the untitled article, the Los Angeles City Council agreed on December 20, 2006 to join a class-action lawsuit with other municipalities and school districts in California against lead-based paints manufacturers. The lawsuit, which set forth a public nuisance claim, alleges that the manufacturers “knew that lead-based paints were toxic but ‘misrepresented’ and ‘concealed’ the hazard before the federal government ultimately banned the products in 1978.” The lawsuit seeks the creation of a fund for use to clean up public and private buildings that contain lead-based paints. According to the City Attorney’s Environmental Justice and Protection Unit, no safe level of acceptable level of lead exists, such that the dangers associated with the carcinogen are “catastrophic.”
- **“Life Sciences; Reports from Western Washington University, Department of Environmental Studies Describe Recent Advances in Life Sciences,” Science Letter (Dec. 19, 2006) at 229.** According to the article, a new report, *Environmental Justice in Indian Country: Dumpsite Remediation on the Swinomish Indian Reservation*, was published that discussed the considerable national attention that has been given over the past decade “on the environmental pollution inequity that persists among the Nation’s poorest communities.” The report noted that despite “these

environmental justice efforts, poor communities continue to face adverse environmental conditions. For the more than 550 Native American communities, the struggle to attain environmental justice is more than a matter of enforcing national laws equitably; it is also a matter of a federal trust duty for the protection of Indian lands and natural resources, honoring the promise that Native American homelands would forever be sustainable.” In particular, the report focused on the struggles of the Swinomish Tribe to clean the PM Northwest, Inc. dumpsite that bordered the Swinomish Indian Reservation in Washington State. According to the report, it took the Swinomish Tribe nearly two decades before it could persuade EPA to clean the dumpsite under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”). According to the article, the report addressed “the enduring struggle to achieve Indian environmental justice in the Swinomish homeland, a process that was dependent upon the development of the Tribe’s political and environmental management capacity as well as EPA’s eventual acknowledgment that Indian environmental justice is integrally linked to its federal trust responsibility.”

- **“Natural Resources Defense Council, Civil Rights Leaders Join Fight to Save Allensworth State Historic Park,” US Fed News (Dec. 19, 2006).** The article set forth a press release from the Natural Resources Defense Council (“NRDC”) that announced that it had joined with government agencies, civil rights groups, and others to “oppose construction of two industrial-scale dairies adjacent to the renowned Colonel Allensworth State Historic Park [(“Park”)], in California’s Central Valley, because of concern about waste and odors from the gigantic facilities.” The Park was founded in 1970 and recreated the only California town that was populated, governed, and financed by African-Americans. According to the article, the proposal “to add two new dairies across from the state park will introduce a massive operation involving 12,000 cows” that would generate massive amounts of manure and pose a “threat to a landmark in California and African-American history.” NRDC’s environmental justice attorney also asserted that it was difficult to “imagine a bigger threat to the use and enjoyment of a unique state park . . . due to odor, flies, dust, and general discomfort to park visitors. Not to mention the threat of groundwater contamination in an area where water is scarce.”
- **“Environmental Group Tells Its Wish List to Spitzer,” Post-Standard (Dec. 18, 2006) at B1.** The article set forth the New York League of Conservation Voters’ recently released 100-day agenda for Governor-elect Eliot Spitzer. Specifically, the group identified six areas that it wanted the new Governor to address, including, among other things, the establishment of an “environmental justice policy that requires all state agencies to consider the impacts of projects on low-income and minority communities.”

- **“Residents Stepping Up Opposition to Landfill Expansion in County; Operators Say Monitoring Is in Place to Detect Gas, Contamination,” Houston Chronicle (Dec. 14, 2006) at 18.** According to the article, residents in Houston voiced their opposition against a proposed landfill expansion by Blue Ridge Landfill, TX, LP (“Blue Ridge”) before the Texas Commission on Environmental Quality (“Commission”) on December 14, 2006. Blue Ridge, which operates as BFI in Houston, however, asserted that the proposed landfill expansion was necessary “to serve a growing population and that safety measures are in place to protect the community.” Among the residents’ concerns included odor, ground-water contamination, flooding, and declining property values due to the proposed expansion. In addition, the residents asserted a claim of environmental racism, since “more people will be affected by the proposed expansion in the densely populated, fast growing, and highly minority area over the next few decades.” One Houston Councilwoman sent a letter to the meeting that noted the concern she felt due to the proposed expansion, “because 23 Houston neighborhoods that represent more than 32,000 people will be negatively affected if this major landfill expansion permit is granted.” The Commission took written comments until December 18, 2006 and had sixty days from that date to evaluate all comments, including those set forth at the meeting, to make a final decision.

## 2. **Recent Litigation.**

- No noteworthy **Recent Litigation** was identified for this period.

## 3. **Regulatory/Legislative/Policy.**

The following items were most noteworthy:

### A. **Federal Congressional Bills and Matters.**

- No noteworthy “*Federal Congressional Bills and Matters*” were identified for this time period.
- No noteworthy “*Miscellaneous House and Senate Congressional Record Mentions of Environmental Justice*” were identified for this time period.
- **Federal Register Notices.**
  - **NRC, Notice of Intent to Prepare an Environmental Impact Statement for the Decommissioning of the Shieldalloy Metallurgical Corporation, New Field, New Jersey, 71 Fed. Reg. 78,232 (Dec. 28, 2006).** The United States Nuclear Regulatory Commission (“NRC”) announced its intent to prepare an Environmental Impact Statement (“EIS”) that will examine the

potential environmental impacts of a proposed decommissioning plan for the Shieldalloy Metallurgical Corporation (“SMC”) facility. SMC proposed “radiological remedial actions that would allow the material license to be amended to a long-term control license for the SMC facility located in New Field, New Jersey,” which the NRC approved on October 18, 2006. The EIS, which will examine various environmental impact areas, including environmental justice, seeks comments by January 31, 2007.

- **EPA, The Allethrins Risk Assessments; Notice of Availability, 71 Fed. Reg. 77,745 (Dec. 27, 2006).** EPA announced the availability of its risk assessments and related documents for the allethrin series of pesticides (bioallethrin, esbiol, esbiothrin, and pynamin forte). In soliciting public comment on these documents by February 26, 2007, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a Reregistration Eligibility Decision (“RED”) for the allethrins through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to the allethrins, compared to the general population.”

- **DOD, Intent To Prepare a Draft Environmental Impact Statement for the Wilmington Harbor--96 Act, Dredged Material Management Plan, New Hanover and Brunswick Counties, NC, 71 Fed. Reg. 77,393 (Dec. 26, 2006).** The United States Army Corps of Engineers (“Corps”) of the United States Department of Defense (“DOD”), Wilmington District announced that it will conduct a study “to evaluate the long-term (20-year) dredged material placement needs and opportunities for Wilmington Harbor.” The study area encompasses Wilmington Harbor and the Ocean Bar approach channels. As part of the study, the Corps will prepare a Dredged Material Management Plan (“DMMP”) and a Draft EIS (“DEIS”), which will “identify, evaluate, screen, prioritize, and ultimately optimize placement alternatives resulting in the recommendation of a plan for the placement of dredged materials for at least the next 20 years.” The study will create options for dredged material management that will be based on an evaluation of the probable impact of the proposed activity on the public interest. The decision will reflect the national concern to protect and use important resources. The study will weigh the benefits against any reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including environmental justice.



- **EPA, Revisions of Standards of Performance for New and Existing Stationary Sources; Electric Utility Steam Generating Units; Federal Plan Requirements for Clean Air Mercury Rule; and Revisions of Acid Rain Program Rules, 71 Fed. Reg. 77,100 (Dec. 22, 2006).** EPA proposed “a Federal Plan to implement Clean Air Act (CAA) Section 111 mercury (Hg) standards of performance for new and existing coal-fired electric utility steam generating units (“Utility Unit” or “EGU”) located in States or Indian Country covered by the Clean Air Mercury Rule (“CAMR”), which do not have EPA approved and currently effective State plans. The EPA will not take final action on the proposed Federal Plan until EPA either finds that a State has failed to timely submit a plan or disapproves a submitted plan.” In addition, this action, for which EPA seeks comment by February 20, 2007, also “proposes certain revisions to both the CAMR State Plan model cap-and-trade rule (to make it compatible with the Federal Plan cap-and-trade rule and to make technical corrections) and the Acid Rain Program regulations (to simplify the provision concerning alternate designated representatives and to make the administrative appeals process applicable to the decisions of the Administrator under the State Plan and Federal Plan cap-and-trade rules).” With regard to environmental justice, EPA considered the proposal’s potential disproportionate negative impacts on low-income or minority populations. EPA expects this proposal will result in beneficial reductions in air pollution and exposures generally, with a small negative impact through increased price for electric power. However, EPA does not believe that this price increase will disproportionately impact low-income and minority populations. Instead, EPA believes that this action will result in beneficial outcomes to these populations. In the absence of CAMR, there are health effects will likely affect certain populations in the United States, including subsistence anglers, Native Americans, and Asian Americans. These populations “may include low-income and minority populations who are disproportionately impacted by Hg exposures due to their economic, cultural, and religious activities that lead to higher levels of consumption of fish than the general populations. CAMR will likely reduce Hg exposures among these populations.”
- **EPA, Toxics Release Inventory Burden Reduction Final Rule, 71 Fed. Reg. 76,932 (Dec. 22, 2006).** EPA announced revisions to the Toxics Release Inventory (“TRI”) reporting requirements “to reduce burden while continuing to provide valuable information to the public, and promote recycling and treatment as alternatives to disposal and other releases.” The rule, which takes effect on January 22, 2007, “expands non-Persistent Bioaccumulative and Toxic (non-PBT) chemical eligibility for Form A by raising the

eligibility threshold to 5,000 pounds of total annual waste management (*i.e.*, releases, recycling, energy recovery, and treatment for destruction) provided total annual releases of the non-PBT chemical comprise no more than 2,000 pounds of the 5,000-pound total waste management limit. This rule also allows, for the first time, limited use of Form A for PBT chemicals when total annual releases of a PBT chemical are zero and the total annual amount of the PBT chemical recycled, combusted for energy, and treated for destruction does not exceed 500 pounds. This rule, however, retains the current exclusion of dioxin and dioxin-like compounds from Form A eligibility. By structuring Form A eligibility for both PBT chemicals and non-PBT chemicals in a way that favors recycling and treatment over disposal and other releases, the rule encourages facilities to reduce their releases and ensures that valuable information will continue to be provided to the public . . .” The notice addressed numerous concerns that commentators raised about the potential environmental impacts, particularly with regard to potential health effects and other impacts from releases near minority and low-income populations. In the preamble to the proposed rule, EPA concluded that it had no indication “that either option will disproportionately impact minority or low-income communities.” In response to a request for information from three members of the United States House of Representatives after the issuance of the proposed rule, EPA asserted that “the results [of information gathered in the response to Congress] show little variance between the percent of communities with facilities filing Form Rs and the percent of communities where facilities would be able to file Form A under the proposed rule.” EPA asserted that it lacked evidence that this rule will directly affect human health or environmental conditions and believed that the rule will not disproportionately affect the environment or public health in minority or low-income communities. Although the rule was not specifically crafted to address minority and disadvantaged communities, EPA asserted that the reduced number of facilities eligible for Form A meant that more detailed information will be available to communities generally, including minority and disadvantaged communities. EPA articulated that the rule will reduce the amount of detailed information available on some toxic chemical releases or management; however, EPA carefully considered the level of detail in the information available to minority and low-income communities. While a higher proportion of minority and low-income communities live in close proximity to some TRI facilities than in the population generally, the rule will not likely have a disproportionate impact on these communities, since facilities in these communities are no more likely than elsewhere to become

eligible to use Form A due to the rule. Results of the environmental justice assessment on the final rule are available in the information docket. The first reports with the revised reporting requirements will be due on or before July 1, 2007, for reporting year (*i.e.*, calendar year) 2006.

— **EPA, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry, 71 Fed. Reg. 76,603 (Dec. 21, 2006).**

EPA announced the finalization of an option that was proposed on June 14, 2006 with regard to amending the current emission standards for synthetic organic chemical manufacturing industry units. Specifically, EPA decided not to impose further controls and not to revise the existing standards based on the residual risk and technology review. The rule took effect on December 21, 2006. The Clean Air Act (“CAA”) directs EPA to assess the residual risk after applying the maximum achievable control technology standards and to promulgate additional standards to provide an ample margin of safety to protect public health or prevent an adverse environmental effect. The CAA also requires EPA to review and revise maximum achievable control technology standards every 8 years, if necessary, taking into account developments in practices, processes, and control technologies. With regard to environmental justice, EPA addressed and responded to one comment regarding environmental justice concerns after soliciting comments in its proposal “on the implications of environmental justice concerns relative to the two options proposed since some HON facilities are located near minority and low-income populations.”

— **EPA, Phase 2 of the Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard--Notice of Reconsideration, 71 Fed. Reg. 75,902 (Dec. 19, 2006).** EPA announced that it will reconsider aspects of the 8-Hour ozone implementation rule that it published on November 29, 2005. EPA published Phase 2 of the final rule to implement the 8-hour ozone national ambient air quality standard (“NAAQS”). In seeking comments by January 18, 2007, EPA specified that it would reconsider and take additional comment on three provisions of the final rule: “the determination that electric generating units (“EGUs”) that comply with rules implementing the Clean Air Interstate Rule (“CAIR”) and that are located in States where all required CAIR emissions reductions are achieved from EGUs meet the 8-hour ozone State implementation plan (“SIP”) requirement for application of reasonably available control technology (“RACT”) for nitrogen oxide (“NO[X]”) emissions; a new source review (“NSR”) requirement allowing sources to use certain emission reductions as offsets under certain circumstances; and an

NSR provision addressing when requirements for the lowest achievable emission rate (“LAER”) and emission offsets may be waived. In addition, EPA requests comment on postponing the submission date for the RACT SIP for RACT SIPs for EGUs in the CAIR region.” EPA will not respond to comments addressing other provisions besides the three issues identified above. EPA concluded that the Phase 2 Rule did not raise any environmental justice issues; for the same reasons, EPA found that this reconsideration notice did not raise any environmental justice issues. The health and environmental risks associated with ozone were considered in establishing the 8-hour, 0.08 ppm ozone NAAQS. The level is designed to protect with an adequate margin of safety. The Phase 2 Rule provides a framework to improve environmental quality and reducing health risks for areas that may be designated nonattainment.

- **EPA, Procedures for Implementing the National Environmental Policy Act and Assessing the Environmental Effects Abroad of EPA Actions, 71 Fed. Reg. 76,082 (Dec. 19, 2006).** EPA proposed amendments to its procedures for implementing the requirements of the National Environmental Policy Act of 1969 (“NEPA”). Specifically, the proposed rule, which seeks comments by February 20, 2007, would amend EPA’s NEPA implementing procedures by: “consolidating and standardizing the procedural provisions and requirements of the Agency’s environmental review process under NEPA; clarifying the general procedures associated with categorical exclusions, consolidating the categories of actions subject to categorical exclusion, amending existing and adding new categorical exclusions, and consolidating and amending existing and adding new extraordinary circumstances; consolidating and amending the listing of actions that generally require an environmental impact statement; clarifying the procedural requirements for consideration of applicable environmental review laws and executive orders; and incorporating other proposed revisions consistent with the Council on Environmental Quality’s regulations.” With regard to environmental justice, the proposed rule did not impose new regulatory program, policy, or activity obligations on EPA, state or local governments, tribes, or individual applicants required to provide environmental information to EPA for certain grants or permits. Therefore, EPA concluded that the proposed rule would not likely have any adverse effects on minority or low-income populations, including tribes.

- **EPA, Federal Implementation Plan Under the Clean Air Act for Certain Trust Lands of the Forest County Potawatomi Community Reservation if Designated as a PSD Class I Area; State of Wisconsin, 71 Fed. Reg. 75,694 (Dec. 18, 2006).** EPA

announced its proposal to promulgate a Federal Implementation Plan (“FIP”) if it approves a request from the Forest County Potawatomi Community (“FCP Community”) “to redesignate certain trust lands within its reservation as Class I with respect to the Clean Air Act Prevention of Significant Deterioration (“PSD”) construction permit program.” In addition, this action, which seeks comments by January 17, 2007, proposes potential codification language. EPA plans to implement the FIP until a Tribal Implementation Plan replaces it. With regard to environmental justice, “EPA believes that the redesignation of FCP Community lands in a FIP from Class II to Class I area should not raise any environmental justice issues since it will reduce the allowable increase of various types of pollutants. Consequently, this redesignation should result in health benefits to tribal members and members of the surrounding communities. Therefore, [EPA believes] that these regulations would not have a disproportionate adverse effect on the health or safety of minority or low-income populations.”

- **EPA, Environmental Impact Statements and Regulations; Availability of EPA Comments, 71 Fed. Reg. 75,539 (Dec. 15, 2006).** EPA announced the availability of its comments pursuant to the Environmental Review Process (“ERP”), as CAA Section 309 and NEPA Section 102(2)(c) require. With regard to the draft Environmental Impact Statements, EPA raised environmental concerns with the “Alaska Groundfish Harvest Specifications Project, Establish Harvest Strategy for the Bering Sea and Aleutian Islands and Gulf of Alaska Groundfish Fisheries” Project due to environmental concerns with the preferred alternative, which would “have greater impacts to target and non-target species than other alternatives.” In addition, EPA requested “additional information on how environmental justice requirements were met.”

**B. State Congressional Bills and Matters.**

- No noteworthy “*State Congressional Bills and Matters*” were identified for this time period.
- No noteworthy “*State Regulatory Alerts*” were identified for this time period.